



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner

April 3, 2007

The Honorable Martha Fuller Clark, Chairman
Senate Energy, Environment & Economic Development
Room 102, Legislative Office Building
Concord, New Hampshire 03301

RE: SB 246 - Relative to a temporary moratorium on the issuance of large groundwater withdrawal permits and on large groundwater withdrawals from bedrock aquifers if withdrawal has not commenced.

Dear Senator Fuller Clark:

Thank you for the opportunity to comment on SB 246. This bill would place a moratorium on issuing large groundwater withdrawal permits and on large withdrawals from bedrock aquifers if a permitted source had not yet begun to withdraw water. This moratorium would be in place until the legislatively established Groundwater Commission completes its work in November, 2008. SB 246, as currently proposed, applies to new large groundwater withdrawals for both public water systems and commercial water uses.

In this letter, we have provided you with some background information to help you understand the large groundwater withdrawal permitting program further. We also provide you with an update on the status of the Groundwater Commission's work and some comments on the proposed legislation.

Groundwater Commission Activities

The Groundwater Commission, which was established to study issues related to groundwater, including groundwater withdrawals, will issue a final report by November 30, 2008. Included as Attachment 1 is the workplan the Groundwater Commission is following to study numerous groundwater issues. Please note that the Commission has completed its work on Issue 1: Large Groundwater Withdrawal Permitting. Attachment 2 provides a list of the questions and materials that were considered by the Commission when it assessed the Large Groundwater Withdrawal Permitting process. The outcomes of this work are three pieces of legislation currently under consideration, one aimed at improving the information provided by drillers on well records, the second exempting replacement wells from large groundwater withdrawal permitting, and the third allowing for municipalities to impose water use restrictions in times of drought. With the exception of allowing an exemption for replacement wells, the Commission did not identify a need to alter the existing large groundwater withdrawal permitting process. Minutes from the meetings held to discuss Issue 1 are available upon request.

DES Web site: www.des.nh.gov

P.O. Box 95, 29 Hazen Drive, Concord, New Hampshire 03302-0095

Telephone: (603) 271-2513 • Fax: (603) 271-5171 • TDD Access: Relay NH 1-800-735-2964

Large Groundwater Withdrawal Permitting Program

In 1998, RSA 485-C and RSA 485 were amended to require that new large groundwater withdrawals (withdrawals exceeding 57,600 gallons over any 24-hour period) obtain a permit from DES. The 1998 law required DES to adopt regulations for permitting new large groundwater withdrawals to ensure that these withdrawals are operated efficiently and do not adversely impact other water users or water resources. Since 1998, this law has been amended twice to address stakeholders' concerns (see Attachment 3 - Large Groundwater Withdrawal Permitting Flow Charts). DES adopted the large groundwater withdrawal permitting regulations in 2001 after working closely with an advisory stakeholder group over a number of years. The regulatory structure that these legislative and public input processes put in place for large groundwater withdrawal permitting is among the most comprehensive and protective in the country.

As shown in the following table, since 1998, a total of 14 large groundwater withdrawal permits have been issued under the new rules at an average of just under 2 per year. The types of operations permitted since then are presented in the table below. In addition to specifying flow rates, most of these permits contain permit conditions that describe groundwater and environmental monitoring requirements for each site, operating requirements such as conditions under which withdrawal rate reductions will be required, and mitigation measures that are required should adverse impacts occur to the environment or other water users.

Status of Large Groundwater Withdrawal Permits Issued (1998-2007)

	Total Permitted Sources	Permitted Sources In Active Operation	Approved Flow Range (gallons per day)		
			Average	Highest Permit	Lowest Permit
Public water supplies	6	5	506,400	712,800	365,760
Golf courses	4	4	190,890	265,000 ¹	131,040
Bottled water operations	4	1 ²	212,602	307,528 ¹	79,200
Total	14	10	317,008 ³	--	--

1. Actual permit is a variable withdrawal rate permit. Maximum permitted volumes only permitted when certain water levels are maintained at specified levels and average precipitation occurs.
 2. The permitted source at this facility replaced a source of water that was established before 1998 and that was therefore exempt from regulation.
 3. Average of the maximum permitted production volume of all fourteen withdrawals. The average does not reflect that several of the permits have a variable maximum withdrawal rate that is based on water level measurements and precipitation trends.
- Note: The only commercial withdrawals that have obtained permits to date have been either golf courses or bottled water operations.

Comments Concerning SB 246

If SB 246 is enacted in its current form, state law would not allow public water systems to develop new large groundwater withdrawals until the Groundwater Commission completes its work in 2008. Currently, Bow, Rochester, Meriden, Milton, Plymouth, Boscawen, Spruce Pond Estates in Windham, Warner, Gunstock Acres in Gilford, Lake Shore Park in Gilford, Waterville Valley, Colebrook, and Village District of Eastman are all in the process of developing new large groundwater withdrawals for community water systems. In some cases, these water systems must develop new water sources to comply with administrative orders issued by DES or to prevent water supply emergencies from occurring in the near future. SB 246 would also directly affect three bottled water operations that have obtained large groundwater withdrawal permits, but have not yet begun extracting water, as well as one commercial operation currently pursuing large groundwater withdrawal permits. The moratorium, also, if extended beyond 2009, would directly affect the ability of existing permit holders to renew their 10-year large groundwater withdrawal permits.

DES is sensitive to the concerns that have led to the proposed moratorium. However, it should be recognized that the current groundwater withdrawal permitting process has ensured that unmitigated adverse impacts have not occurred to other water users or water resources, and has protected future water supply needs, including in one area where a new large withdrawal has been developed in a bedrock aquifer with extremely high water use. Clearly, although groundwater is relatively abundant in New Hampshire, there are stressed areas where concern about the impact from large groundwater withdrawal is warranted. DES believes that the existing large groundwater withdrawal permitting program was created and has been operated to address these concerns. Accordingly, we urge you to proceed cautiously if you choose to enact SB 246 since a moratorium may not be necessary to protect water users and water resources and may have unintended consequences for public water supplies and the economy of the state.

Thank you again for the opportunity to comment on this legislation. If you have any questions or need additional information, please do not hesitate to call Sarah Pillsbury at 271-1168 or me at 271-3449.

Sincerely,

A handwritten signature in black ink that reads "Thomas S. Burack". A large, red, diagonal stamp with the word "COPY" is overlaid across the signature.

Thomas S. Burack
Commissioner

cc: Senator Barnes
Senator Hassan

Attachments: 1) SB 155 Groundwater Commission Workplan
2) SB 155 Groundwater Commission Assessment of the Large Groundwater
Withdrawal Permitting Process
3) Large Groundwater Withdrawal Permitting Flowcharts